

JAN 29 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

KELVIN A. CANADA,)	Civil Action No. 7:11cv00569
Plaintiff,)	
)	ORDER ADOPTING REPORT
v.)	AND RECOMMENDATION
)	
WALTER DAVIS et al.,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Kelvin Canada, a Virginia inmate proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983 against a number of Red Onion State Prison ("ROSP") employees, alleging variously that the defendants used excessive force against him, failed to protect him, and displayed deliberate indifference to his medical needs. Canada seeks damages under that statute.

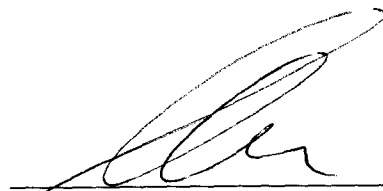
The court has adopted two previous Report and Recommendations involving Canada's § 1983 claims in this particular case, in which the court dismissed Canada's claims against several co-defendants for failure to state a claim, denied a motion for a preliminary injunctive relief, and granted summary judgment in favor of the remaining defendants as to Canada's claims of deliberate indifference. The court then assigned the remaining claims to United States Magistrate Judge Pamela M. Sargent, who held a trial on December 6, 2012. On January 4, 2013, Magistrate Judge Sargent filed a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) recommending entry of judgment in favor of the correctional officer defendants Officer Walter Davis, Sergeant William Wright, Sergeant Paul Payne, and Captain Dewayne Turner. (ECF No. 84.) Canada has filed an objection to that Report and Recommendation, partly reiterating arguments made in his earlier pleadings and offering nothing substantive in response to the Magistrate's findings. (ECF No. 87.) Canada failed to object to the Report and Recommendation concerning his motion for preliminary injunction. (ECF No. 86.) "[I]n the

absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). The court is satisfied that there is no clear error on the face of the record. Having reviewed the Reports and Recommendations, Canada’s objections thereto, and pertinent portions of the record *de novo* in accordance with § 636(b)(1), the court agrees with the Magistrate Judge’s recommendations regarding the entry of judgment in favor of the defendants (ECF No. 84) and denial of preliminary injunctive relief (ECF No. 86) on Canada’s remaining claims.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge’s Reports and Recommendations are **ADOPTED** in their entirety; Canada’s objections are **OVERRULED**; judgment is **ENTERED** in favor of defendants Davis, Wright, Payne and Turner; Canada’s motion for preliminary injunctive relief is **DENIED**; and Canada’s remaining claims are **DISMISSED** and **STRICKEN** from the court’s active docket.

The Clerk of the Court is **DIRECTED** to send a certified copy of this order to the plaintiff.

ENTER: January 29, 2013.


UNITED STATES DISTRICT JUDGE